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In re Application of :
Gleave et al. :
Application No. ~~09/613,325~~ 09/913,325 : Decision on Petition for
International Filing Date: February 25, 2000 : Patent Term Adjustment
Attorney Docket No. UBC.P-020 :
For: TRPM-2 ANTISENSE THERAPY :
:

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Petition For Correction To Patent Term Adjustment," received on April 24, 2008. In the alternative, the petition is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181. See 35 U.S.C. § 154(b)¹ and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that Notice of Allowance mailed was mailed on March 21, 2008, for the above-identified application and that the Determination of Patent Term Extension failed to properly calculate an extension. Petitioner states that it appears from the entries PAIR, it appears the calculation function failed to run because neither PTO delays (750 days), nor applicant delays (243 days) were calculated. Petitioner asserts that the application is entitled to a patent term adjustment of 507 days under 35 U.S.C. § 154(b)(1)(B).

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000.

¹ 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

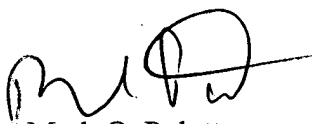
35 U.S.C. § 154(b) (as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

The above-identified application was filed on February 25, 2000, as the international filing date is the filing date of the application and August 10, 2001, is the date of national stage entry and completion of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. See MPEP 1893.03(b) and Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495. Accordingly the application is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000, thus the petition under 37 CFR 1.705 is dismissed.

In the alternative, the application has been reviewed for patent term extension pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995. The application is not entitled to patent term extension under 37 CFR 1.701, as there was not a successful appeal, interference or a secrecy order. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154. The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. See 35 U.S.C. § 41(a)(7). The required \$200 fee for the request under 37 CFR 1.705(b) has been paid.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



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